

HOUSE BILL No. 5146

October 4, 2001, Introduced by Reps. Voorhees, Vander Veen, Birkholz, Kuipers, Caul, Cassis and Shulman and referred to the Committee on Senior Health, Security and Retirement.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20155 (MCL 333.20155), as amended by 2000 PA
171.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20155. (1) Except as otherwise provided in this sec-
2 tion, the department of consumer and industry services shall make
3 annual and other visits to each health facility or agency
4 licensed under this article for the purposes of survey, evalu-
5 ation, and consultation. A visit made pursuant to a complaint
6 shall be unannounced. Except for a county medical care facility,
7 a home for the aged, a nursing home, or a hospice residence, the
8 department shall determine whether the visits that are not made
9 pursuant to a complaint are announced or unannounced. Beginning
10 ~~upon the expiration of 12 months after the effective date of the~~

1 ~~amendatory act that added this sentence~~ JUNE 20, 2001, the
2 department shall assure that each newly hired nursing home sur-
3 veyor, as part of his or her basic training, is assigned
4 full-time to a licensed nursing home for at least 10 days within
5 a 14-day period to observe actual operations outside of the
6 survey process before the trainee begins oversight
7 responsibilities. A member of a survey team shall not be
8 employed by a licensed nursing home or a nursing home management
9 company doing business in this state at the time of conducting a
10 survey under this section. The department shall not assign an
11 individual to be a member of a survey team for purposes of a
12 survey, evaluation, or consultation visit at a nursing home in
13 which he or she was an employee within the preceding 5 years.

14 (2) The department of consumer and industry services shall
15 make at least a biennial visit to each licensed clinical labora-
16 tory, each nursing home, and each hospice residence for the pur-
17 poses of survey, evaluation, and consultation. The department of
18 consumer and industry services shall semiannually provide for
19 joint training with nursing home surveyors and providers on at
20 least 1 of the 10 most frequently issued federal citations in
21 this state during the past calendar year. The department of con-
22 sumer and industry services shall develop a protocol for the
23 review of citation patterns compared to regional outcomes and
24 standards and complaints regarding the nursing home survey
25 process. The review will result in a report provided to the
26 legislature. Except as otherwise provided in this subsection,
27 beginning with his or her first full relicensure period after

1 ~~the effective date of the amendatory act that added this~~
2 ~~sentence~~ JUNE 20, 2000, each member of a department of consumer
3 and industry services nursing home survey team who is a health
4 professional licensee under article 15 shall earn not less than
5 50% of his or her required continuing education credits, if any,
6 in geriatric care. If a member of a nursing home survey team is
7 a pharmacist licensed under article 15, he or she shall earn not
8 less than 30% of his or her required continuing education credits
9 in geriatric care.

10 (3) The department of consumer and industry services shall
11 make a biennial visit to each hospital for survey and evaluation
12 for the purpose of licensure. Subject to subsection (6), the
13 department may waive the biennial visit required by this subsec-
14 tion if a hospital, as part of a timely application for license
15 renewal, requests a waiver and submits both of the following and
16 if all of the requirements of subsection (5) are met:

17 (a) Evidence that it is currently fully accredited by a body
18 with expertise in hospital accreditation whose hospital accredit-
19 ations are accepted by the United States department of health and
20 human services for purposes of section 1865 of part C of title
21 XVIII of the social security act, 42 U.S.C. 1395bb.

22 (b) A copy of the most recent accreditation report for the
23 hospital issued by a body described in subdivision (a), and the
24 hospital's responses to the accreditation report.

25 (4) Except as provided in subsection (8), accreditation
26 information provided to the department of consumer and industry
27 services under subsection (3) is confidential, is not a public

1 record, and is not subject to court subpoena. The department
2 shall use the accreditation information only as provided in this
3 section and shall return the accreditation information to the
4 hospital within a reasonable time after a decision on the waiver
5 request is made.

6 (5) The department of consumer and industry services shall
7 grant a waiver under subsection (3) if the accreditation report
8 submitted under subsection (3)(b) is less than 2 years old and
9 there is no indication of substantial noncompliance with licen-
10 sure standards or of deficiencies that represent a threat to
11 public safety or patient care in the report, in complaints
12 involving the hospital, or in any other information available to
13 the department. If the accreditation report is 2 or more years
14 old, the department may do 1 of the following:

15 (a) Grant an extension of the hospital's current license
16 until the next accreditation survey is completed by the body
17 described in subsection (3)(a).

18 (b) Grant a waiver under subsection (3) based on the accred-
19 itation report that is 2 or more years old, on condition that the
20 hospital promptly submit the next accreditation report to the
21 department.

22 (c) Deny the waiver request and conduct the visits required
23 under subsection (3).

24 (6) This section does not prohibit the department from
25 citing a violation of this part during a survey, conducting
26 investigations or inspections pursuant to section 20156, or
27 conducting surveys of health facilities or agencies for the

1 purpose of complaint investigations or federal certification.
2 This section does not prohibit the state fire marshal from con-
3 ducting annual surveys of hospitals, nursing homes, and county
4 medical care facilities.

5 (7) At the request of a health facility or agency, the
6 department of consumer and industry services may conduct a con-
7 sultation engineering survey of a health facility and provide
8 professional advice and consultation regarding health facility
9 construction and design. A health facility or agency may request
10 a voluntary consultation survey under this subsection at any time
11 between licensure surveys. The fees for a consultation engineer-
12 ing survey are the same as the fees established for waivers under
13 section 20161(10).

14 (8) If the department of consumer and industry services
15 determines that substantial noncompliance with licensure stan-
16 dards exists or that deficiencies that represent a threat to
17 public safety or patient care exist based on a review of an
18 accreditation report submitted pursuant to subsection (3)(b), the
19 department shall prepare a written summary of the substantial
20 noncompliance or deficiencies and the hospital's response to the
21 department's determination. The department's written summary and
22 the hospital's response are public documents.

23 (9) The department of consumer and industry services or a
24 local health department shall conduct investigations or inspec-
25 tions, other than inspections of financial records, of a county
26 medical care facility, home for the aged, nursing home, or
27 hospice residence without prior notice to the health facility or

1 agency. An employee of a state agency charged with investigating
2 or inspecting the health facility or agency or an employee of a
3 local health department who directly or indirectly gives prior
4 notice regarding an investigation or an inspection, other than an
5 inspection of the financial records, to the health facility or
6 agency or to an employee of the health facility or agency, is
7 guilty of a misdemeanor. Consultation visits that are not for
8 the purpose of annual or follow-up inspection or survey may be
9 announced.

10 (10) The department of consumer and industry services shall
11 maintain a record indicating whether a visit and inspection is
12 announced or unannounced. Information gathered at each visit and
13 inspection, whether announced or unannounced, shall be taken into
14 account in licensure decisions.

15 (11) The department of consumer and industry services shall
16 require periodic reports and a health facility or agency shall
17 give the department access to books, records, and other documents
18 maintained by a health facility or agency to the extent necessary
19 to carry out the purpose of this article and the rules promul-
20 gated under this article. The department shall respect the con-
21 fidentiality of a patient's clinical record and shall not divulge
22 or disclose the contents of the records in a manner that identi-
23 fies an individual except under court order. The department may
24 copy health facility or agency records as required to document
25 findings.

26 (12) The department of consumer and industry services may
27 delegate survey, evaluation, or consultation functions to another

1 state agency or to a local health department qualified to perform
2 those functions. However, the department shall not delegate
3 survey, evaluation, or consultation functions to a local health
4 department that owns or operates a hospice or hospice residence
5 licensed under this article. The delegation shall be by cost
6 reimbursement contract between the department and the state
7 agency or local health department. Survey, evaluation, or con-
8 sultation functions shall not be delegated to nongovernmental
9 agencies, except as provided in this section. The department may
10 accept voluntary inspections performed by an accrediting body
11 with expertise in clinical laboratory accreditation under part
12 205 if the accrediting body utilizes forms acceptable to the
13 department, applies the same licensing standards as applied to
14 other clinical laboratories and provides the same information and
15 data usually filed by the department's own employees when engaged
16 in similar inspections or surveys. The voluntary inspection
17 described in this subsection shall be agreed upon by both the
18 licensee and the department.

19 (13) If, upon investigation, the department of consumer and
20 industry services or a state agency determines that an individual
21 licensed to practice a profession in this state has violated the
22 applicable licensure statute or the rules promulgated under that
23 statute, the department, state agency, or local health department
24 shall forward the evidence it has to the appropriate licensing
25 agency.

26 (14) The department of consumer and industry services shall
27 report to the appropriations subcommittees, the senate and house

1 of representatives standing committees having jurisdiction over
2 issues involving senior citizens, and the fiscal agencies on
3 March 1 of each year on the initial and follow-up surveys con-
4 ducted on all nursing homes in this state. The report shall
5 include all of the following information:

6 (a) The number of surveys conducted.

7 (b) The number requiring follow-up surveys.

8 (c) The number referred to the Michigan public health insti-
9 tute for remediation.

10 (d) The number of citations per nursing home.

11 (e) The number of night and weekend complaints filed.

12 (f) The number of night and weekend responses to complaints
13 conducted by the department.

14 (g) The average length of time for the department to respond
15 to a complaint filed against a nursing home.

16 (h) The number and percentage of citations appealed.

17 (i) The number and percentage of citations overturned or
18 modified, or both.

19 (15) The department of consumer and industry services shall
20 report annually to the standing committees on appropriations and
21 the standing committees having jurisdiction over issues involving
22 senior citizens in the senate and the house of representatives on
23 the percentage of nursing home citations that are appealed and
24 the percentage of nursing home citations that are appealed and
25 amended through the informal deficiency dispute resolution
26 process.

1 (16) ~~The~~ SUBJECT TO SUBSECTION (17), THE department of
2 consumer and industry services in consultation with nursing home
3 provider groups, the American medical directors association, the
4 department of community health, the state long-term care ombuds-
5 man, and the federal ~~health care finance administration~~ CENTERS
6 FOR MEDICARE AND MEDICAID SERVICES shall clarify the following
7 terms as those terms are used in title XVIII and title XIX and
8 applied by the department to provide more consistent regulation
9 of nursing homes in Michigan:

10 (a) Immediate jeopardy.

11 (b) Harm.

12 (c) Potential harm.

13 (d) Avoidable.

14 (e) Unavoidable.

15 (17) ALL OF THE FOLLOWING CLARIFICATIONS DEVELOPED UNDER
16 SUBSECTION (16) APPLY FOR PURPOSES OF SUBSECTION (16):

17 (A) SPECIFICALLY, THE TERM "IMMEDIATE JEOPARDY" MEANS "A
18 SITUATION IN WHICH IMMEDIATE CORRECTIVE ACTION IS NECESSARY
19 BECAUSE THE NURSING HOME'S NONCOMPLIANCE WITH 1 OR MORE REQUIRE-
20 MENTS OF PARTICIPATION HAS CAUSED OR IS LIKELY TO CAUSE SERIOUS
21 INJURY, HARM, IMPAIRMENT, OR DEATH TO A RESIDENT RECEIVING CARE
22 IN A NURSING HOME".

23 (B) THE LIKELIHOOD OF IMMEDIATE JEOPARDY IS REASONABLY
24 HIGHER IF THERE IS EVIDENCE OF A FLAGRANT FAILURE BY THE NURSING
25 HOME TO COMPLY WITH A CLINICAL PROCESS GUIDELINE ESTABLISHED
26 UNDER SUBSECTION (18) THAN IF THE NURSING HOME HAS SUBSTANTIALLY
27 AND CONTINUOUSLY COMPLIED WITH THOSE GUIDELINES. IF FEDERAL

1 REGULATIONS AND GUIDELINES ARE NOT CLEAR, AND IF THE CLINICAL
2 PROCESS GUIDELINES HAVE BEEN RECOGNIZED, A PROCESS FAILURE GIVING
3 RISE TO AN IMMEDIATE JEOPARDY MAY INVOLVE AN EGREGIOUS WIDESPREAD
4 OR REPEATED PROCESS FAILURE AND THE ABSENCE OF REASONABLE EFFORTS
5 TO DETECT AND PREVENT THE PROCESS FAILURE.

6 (C) IN DETERMINING WHETHER OR NOT THERE IS IMMEDIATE JEOPAR-
7 DY, THE SURVEY AGENCY SHOULD CONSIDER AT LEAST ALL OF THE
8 FOLLOWING:

9 (i) WHETHER THE NURSING HOME COULD REASONABLY HAVE BEEN
10 EXPECTED TO KNOW ABOUT THE DEFICIENT PRACTICE AND TO STOP IT, BUT
11 DID NOT STOP THE DEFICIENT PRACTICE.

12 (ii) WHETHER THE NURSING HOME COULD REASONABLY HAVE BEEN
13 EXPECTED TO IDENTIFY THE DEFICIENT PRACTICE AND TO CORRECT IT,
14 BUT DID NOT CORRECT THE DEFICIENT PRACTICE.

15 (iii) WHETHER THE NURSING HOME COULD REASONABLY HAVE BEEN
16 EXPECTED TO ANTICIPATE THAT SERIOUS INJURY, SERIOUS HARM, IMPAIR-
17 MENT, OR DEATH MIGHT RESULT FROM CONTINUING THE DEFICIENT PRAC-
18 TICE, BUT DID NOT SO ANTICIPATE.

19 (iv) WHETHER THE NURSING HOME COULD REASONABLY HAVE BEEN
20 EXPECTED TO KNOW THAT A WIDELY ACCEPTED HIGH-RISK PRACTICE IS OR
21 COULD BE PROBLEMATIC, BUT DID NOT KNOW.

22 (v) WHETHER THE NURSING HOME COULD REASONABLY HAVE BEEN
23 EXPECTED TO DETECT THE PROCESS PROBLEM IN A MORE TIMELY FASHION,
24 BUT DID NOT SO DETECT.

25 (D) THE EXISTENCE OF 1 OR MORE OF THE FACTORS DESCRIBED IN
26 SUBDIVISION (C), AND ESPECIALLY THE EXISTENCE OF 3 OR MORE OF
27 THOSE FACTORS SIMULTANEOUSLY, MAY LEAD TO A CONCLUSION THAT THE

1 SITUATION IS ONE IN WHICH THE NURSING HOME'S PRACTICE MAKES
2 ADVERSE EVENTS LIKELY TO OCCUR IF IMMEDIATE INTERVENTION IS NOT
3 UNDERTAKEN, AND THEREFORE CONSTITUTES IMMEDIATE JEOPARDY. IF
4 NONE OF THE FACTORS DESCRIBED IN SUBDIVISION (C) IS PRESENT, THE
5 SITUATION MAY INVOLVE HARM OR POTENTIAL HARM THAT IS NOT IMMEDI-
6 ATE JEOPARDY.

7 (E) SPECIFICALLY, "ACTUAL HARM" MEANS "A NEGATIVE OUTCOME TO
8 A RESIDENT THAT HAS COMPROMISED THE RESIDENT'S ABILITY TO MAIN-
9 TAIN OR REACH, OR BOTH, HIS OR HER HIGHEST PRACTICABLE PHYSICAL,
10 MENTAL, AND PSYCHOSOCIAL WELL-BEING AS DEFINED BY AN ACCURATE AND
11 COMPREHENSIVE RESIDENT ASSESSMENT, PLAN OF CARE, AND PROVISION OF
12 SERVICES". HARM DOES NOT INCLUDE A DEFICIENT PRACTICE THAT ONLY
13 MAY CAUSE OR HAS CAUSED LIMITED CONSEQUENCES TO THE RESIDENT.

14 (F) FOR PURPOSES OF SUBDIVISION (E), IN DETERMINING WHETHER
15 A NEGATIVE OUTCOME IS OF LIMITED CONSEQUENCE, IF THE "STATE OPER-
16 ATIONS MANUAL" OR "THE GUIDANCE TO SURVEYORS" PUBLISHED BY THE
17 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES DOES NOT PRO-
18 VIDE SPECIFIC GUIDANCE, THE DEPARTMENT MAY CONSIDER WHETHER MOST
19 PEOPLE IN SIMILAR CIRCUMSTANCES WOULD FEEL THAT THE DAMAGE WAS OF
20 SUCH SHORT DURATION OR IMPACT AS TO BE INCONSEQUENTIAL OR
21 TRIVIAL. IN SUCH A CASE, THE CONSEQUENCE OF A NEGATIVE OUTCOME
22 MAY BE CONSIDERED MORE LIMITED IF IT OCCURS IN THE CONTEXT OF
23 OVERALL PROCEDURAL CONSISTENCY WITH AN ACCEPTED CLINICAL PRACTICE
24 GUIDELINE ADOPTED PURSUANT TO SUBSECTION (18), AS COMPARED TO A
25 SUBSTANTIAL INCONSISTENCY WITH OR VARIANCE FROM THE GUIDELINE.

26 (G) FOR PURPOSES OF SUBDIVISION (E), IF THE PUBLICATIONS
27 DESCRIBED IN SUBDIVISION (F) DO NOT PROVIDE SPECIFIC GUIDANCE,

1 THE DEPARTMENT MAY CONSIDER THE DEGREE OF A NURSING HOME'S
2 ADHERENCE TO A CLINICAL PROCESS GUIDELINE ADOPTED PURSUANT TO
3 SUBSECTION (18) IN CONSIDERING WHETHER THE DEGREE OF COMPROMISE
4 AND FUTURE RISK TO THE RESIDENT CONSTITUTES ACTUAL HARM. THE
5 RISK OF SIGNIFICANT COMPROMISE TO THE RESIDENT MAY BE CONSIDERED
6 GREATER IN THE CONTEXT OF SUBSTANTIAL DEVIATION FROM THE GUIDE-
7 LINES THAN IN THE CASE OF OVERALL ADHERENCE.

8 (H) TO IMPROVE CONSISTENCY AND TO AVOID DISPUTES OVER
9 "AVOIDABLE" AND "UNAVOIDABLE" NEGATIVE OUTCOMES, NURSING HOMES
10 AND SURVEY AGENCIES MUST HAVE A COMMON UNDERSTANDING OF ACCEPTED
11 PROCESS GUIDELINES AND OF THE CIRCUMSTANCES UNDER WHICH IT CAN
12 REASONABLY BE SAID THAT CERTAIN ACTIONS OR INACTIONS WILL LEAD TO
13 AVOIDABLE NEGATIVE OUTCOMES. IF THE "STATE OPERATIONS MANUAL" OR
14 "THE GUIDANCE TO SURVEYORS" PUBLISHED BY THE FEDERAL CENTERS FOR
15 MEDICARE AND MEDICAID SERVICES IS NOT SPECIFIC, A NURSING HOME'S
16 OVERALL DOCUMENTATION OF COMPLIANCE WITH A PROCESS INDICATOR
17 ADOPTED PURSUANT TO THIS SUBSECTION IS RELEVANT INFORMATION IN
18 CONSIDERING WHETHER A NEGATIVE OUTCOME WAS "AVOIDABLE" OR
19 "UNAVOIDABLE" AND MAY BE CONSIDERED IN THE APPLICATION OF THAT
20 TERM.

21 (18) SUBJECT TO SUBSECTION (19), THE DEPARTMENT, IN CONSUL-
22 TATION WITH THE CLARIFICATION WORK GROUP APPOINTED UNDER SUBSEC-
23 TION (16), SHALL DEVELOP AND ADOPT CLINICAL PROCESS GUIDELINES
24 THAT SHALL BE USED IN APPLYING THE TERMS SET FORTH IN SUBSECTION
25 (16). THE DEPARTMENT SHALL ESTABLISH AND ADOPT CLINICAL PROCESS
26 GUIDELINES AND COMPLIANCE PROTOCOLS FOR ALL OF THE FOLLOWING
27 AREAS AND FOR OTHER TOPICS WHERE THE DEPARTMENT DETERMINES THAT

1 CLARIFICATION WILL BENEFIT PROVIDERS AND CONSUMERS OF LONG-TERM
2 CARE:

3 (A) BED RAILS.

4 (B) ADVERSE DRUG EFFECTS.

5 (C) FALLS.

6 (D) PRESSURE SORES.

7 (E) NUTRITION AND HYDRATION.

8 (F) PAIN MANAGEMENT.

9 (G) DEPRESSION AND DEPRESSION PHARMACOTHERAPY.

10 (H) HEART FAILURE.

11 (I) URINARY INCONTINENCE.

12 (J) DEMENTIA.

13 (K) OSTEOPOROSIS.

14 (L) ALTERED MENTAL STATES.

15 (19) THE DEPARTMENT SHALL CREATE A CLINICAL ADVISORY COMMIT-
16 TEE TO REVIEW AND MAKE RECOMMENDATIONS REGARDING THE CLINICAL
17 PROCESS GUIDELINES ADOPTED UNDER SUBSECTION (18). THE DEPARTMENT
18 SHALL APPOINT PHYSICIANS, REGISTERED PROFESSIONAL NURSES, AND
19 LICENSED PRACTICAL NURSES TO THE CLINICAL ADVISORY COMMITTEE, AT
20 LEAST SOME OF WHOM ARE EMPLOYED BY NURSING HOMES IN THIS STATE AT
21 THE TIME OF APPOINTMENT. THE CLARIFICATION WORK GROUP CREATED
22 UNDER SUBSECTION (16) SHALL REVIEW THE GUIDELINES AFTER THE CLIN-
23 ICAL ADVISORY COMMITTEE AND SHALL MAKE THE FINAL RECOMMENDATIONS
24 TO THE DEPARTMENT BEFORE THE GUIDELINES ARE ADOPTED.

25 (20) THE DEPARTMENT SHALL CREATE A VALIDATION COMMITTEE CON-
26 SISTING OF DEPARTMENT EMPLOYEES. THE VALIDATION COMMITTEE SHALL
27 ASSESS THE MOST SERIOUS NURSING HOME CITATIONS AS THEY OCCUR IN

1 THE SURVEY PROCESS. THE VALIDATION COMMITTEE SHALL REVIEW
2 CITATIONS OF IMMEDIATE JEOPARDY AND SUBSTANDARD QUALITY OF CARE
3 TO ASSURE THAT THE CONCEPTS, CLINICAL PROCESS GUIDELINES, AND
4 OTHER TOOLS CONTAINED IN SUBSECTIONS (17) TO (19) ARE BEING USED
5 CONSISTENTLY, ACCURATELY, AND EFFECTIVELY.

6 (21) THE DEPARTMENT MAY GIVE AWARDS TO NURSING HOMES TO
7 ENCOURAGE THE RAPID IMPLEMENTATION OF THE CLINICAL PROCESS GUIDE-
8 LINES ADOPTED UNDER SUBSECTION (18).

9 (22) THE DEPARTMENT SHALL ESTABLISH QUALITY OUTCOME MEASURES
10 TO ASSESS THE EFFECTIVENESS OF THE AMENDATORY ACT THAT ADDED THIS
11 SUBSECTION. THE DEPARTMENT SHALL ESTABLISH OUTCOME MEASURES FOR
12 EACH OF THE AREAS LISTED IN SUBSECTION (18)(A) TO (1). THE
13 DEPARTMENT SHALL APPLY THE OUTCOME MEASURES AND SHALL FILE AN
14 ANNUAL REPORT ON THE IMPLEMENTATION OF THE CLINICAL PROCESS
15 GUIDELINES WITH THE STANDING COMMITTEE IN THE LEGISLATURE WITH
16 JURISDICTION OVER MATTERS PERTAINING TO NURSING HOMES. THE FIRST
17 REPORT SHALL BE FILED ON JULY 1 OF THE YEAR FOLLOWING THE YEAR IN
18 WHICH THE AMENDATORY ACT THAT ADDED THIS SUBSECTION TAKES EFFECT.

19 (23) ~~-(17)-~~ The department of consumer and industry services
20 shall instruct and train the surveyors in the use of the clarifi-
21 cations described in subsection ~~-(16)-~~ (17) AND THE CLINICAL PRO-
22 CESS GUIDELINES ADOPTED UNDER SUBSECTION (18) in citing
23 deficiencies.

24 (24) ~~-(18)-~~ A nursing home shall post the nursing home's
25 survey report in a conspicuous place within the nursing home for
26 public review.

1 (25) ~~—(19)—~~ As used in this section:

2 (a) "Title XVIII" means title XVIII of the social security
3 act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,
4 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to
5 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,
6 1395x to 1395yy, and 1395bbb to 1395ggg.

7 (b) "Title XIX" means title XIX of the social security act,
8 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to
9 1396r-6, and 1396r-8 to 1396v.